

*In re National Prescription Opiate Litigation: MDL 2804*

**DEFENDANTS' DAUBERT MOTION TO EXCLUDE EXPERT TESTIMONY OF  
KATHERINE KEYES, ANNA LEMBKE & JONATHAN GRUBER RE THE  
"GATEWAY HYPOTHESIS" OF CAUSATION  
Summary Sheet**

**Motion Name:** Defendants' Motion to Exclude Expert Testimony of Katherine Keyes, Anna Lembke, and Jonathan Gruber re: the "Gateway Hypothesis" of Causation

**Concise Description:**

Defendants move to exclude portions of the opinions of Plaintiffs' Experts Katherine Keyes, Anna Lembke, and Jonathan Gruber insofar as they relate to the "gateway hypothesis," the assertion that heroin and fentanyl use are *caused* by the use of prescription opioids, including medical use pursuant to a legitimate prescription—and that as a result Defendants are responsible for damages related to the use of these illicit street drugs.

Plaintiffs' experts' gateway opinions should be excluded for several reasons. First, the methodology by which all three experts reach these opinions is unreliably and highly speculative. Although each of Plaintiffs' experts purports to examine the scientific literature addressing whether there is a relationship between prescription opioid use and heroin, the conclusions that they draw go far beyond what any science supports. The experts identified no studies that they purport even to look at—let alone find a causal link between—properly prescribed pain patients and today's heroin and fentanyl problems. They admit as much in their reports and depositions.

Furthermore, even the studies Plaintiffs' experts do cite—which all look at known "non-medical users," functionally abusers, of prescription opioids—do not claim that heroin or fentanyl use is "caused" by such prior non-medical use or abuse of prescription opioids in this population. They find at most a correlation or association, not causation. Dr. Gruber admits that this evidence is insufficient to prove a causal link between nonmedical use of prescription opioids and heroin or fentanyl use, yet he and Dr. Keyes nonetheless seek to go beyond the scope of the available science to assert that causation exists. Dr. Lembke does not even try to assert that there is a causal relationship between nonmedical opioid use and heroin abuse, stating only that there is a "clear link" between prescription-opioid use and heroin abuse.

Finally, Plaintiffs' experts' opinions on the gateway hypothesis are both fundamentally misleading and highly prejudicial. When Plaintiffs are seeking to recover damages that arise from persons who allegedly became addicted to opioids prescribed by their doctors, it is fundamentally misleading to rely on evidence about persons who are not known ever to have received a doctor's prescription for opioids and who instead abused these medications. And testimony linking illegal heroin and fentanyl to Defendants is liable to improperly incite and confuse the jury.

Filing Date: June 28, 2019

Response Date: July 31, 2019

Reply Date: August 16, 2019